

Senator Ann Miller proposes the following substitute bill:

PROPERTY TAX APPEALS PROCESS AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ann Miller

House Sponsor: Val L. Peterson

LONG TITLE

General Description:

This bill modifies provisions related to appeals to a county board of equalization.

Highlighted Provisions:

This bill:

- ▶ in an appeal to a county board of equalization, requires the county assessor and the taxpayer to disclose certain evidence before the public hearing on the appeal;
- ▶ allows a county assessor to provide a written response to any previously undisclosed evidence the taxpayer presents at the public hearing; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

59-2-1004, as last amended by Laws of Utah 2020, Chapter 86

Be it enacted by the Legislature of the state of Utah:



26 Section 1. Section 59-2-1004 is amended to read:

27 **59-2-1004. Appeal to county board of equalization -- Real property -- Time**
28 **period for appeal -- Public hearing requirements -- Decision of board -- Extensions**
29 **approved by commission -- Appeal to commission.**

30 (1) As used in this section:

31 (a) "Final assessed value" means:

32 (i) for real property for which the taxpayer appealed the valuation or equalization to the
33 county board of equalization in accordance with this section, the value given to the real
34 property by a county board of equalization after the appeal;

35 (ii) for real property for which the taxpayer or a county assessor appealed the valuation
36 or equalization to the commission in accordance with Section 59-2-1006, the value given to the
37 real property by:

38 (A) the commission, if the commission has issued a decision in the appeal; or

39 (B) a county board of equalization, if the commission has not yet issued a decision in
40 the appeal; or

41 (iii) for real property for which the taxpayer or a county assessor sought judicial review
42 of the valuation or equalization in accordance with Section 59-1-602 or Title 63G, Chapter 4,
43 Part 4, Judicial Review, the value given the real property by the commission.

44 (b) "Inflation adjusted value" means the value of the real property that is the subject of
45 the appeal as calculated by the county assessor in accordance with Subsection (2)(c).

46 (c) "Median property value change" means the midpoint of the property value changes
47 for all real property that is:

48 (i) of the same class of real property as the qualified real property; and

49 (ii) located within the same county and within the same market area as the qualified
50 real property.

51 (d) "Property value change" means the percentage change in the fair market value of
52 real property between January 1 of the previous year and January 1 of the current year.

53 (e) "Qualified real property" means real property:

54 (i) for which:

55 (A) the taxpayer or a county assessor appealed the valuation or equalization for the
56 previous taxable year to the county board of equalization in accordance with this section or the

57 commission in accordance with Section 59-2-1006;

58 (B) as a result of the appeal described in Subsection (1)(e)(i)(A), a county board of
59 equalization or the commission gave a final assessed value that was lower than the assessed
60 value; and

61 (C) the assessed value for the current taxable year is higher than the inflation adjusted
62 value; and

63 (ii) that, between January 1 of the previous taxable year and January 1 of the current
64 taxable year, has not been improved or changed beyond the improvements in place on January
65 1 of the previous taxable year.

66 (2) (a) A taxpayer dissatisfied with the valuation or the equalization of the taxpayer's
67 real property may make an application to appeal by:

68 (i) filing the application with the county board of equalization within the time period
69 described in Subsection (3); or

70 (ii) making an application by telephone or other electronic means within the time
71 period described in Subsection (3) if the county legislative body passes a resolution under
72 Subsection (8) authorizing a taxpayer to make an application by telephone or other electronic
73 means.

74 (b) (i) The county board of equalization shall make a rule describing the contents of the
75 application.

76 (ii) In addition to any information the county board of equalization requires, the
77 application shall include information about:

78 (A) the burden of proof in an appeal involving qualified real property; and

79 (B) the process for the taxpayer to learn the inflation adjusted value of the qualified
80 real property.

81 (c) (i) The county assessor shall calculate inflation adjusted value by changing the final
82 assessed value for the previous taxable year of the real property that is the subject of the appeal
83 by the median property value change.

84 (ii) (A) The county assessor shall notify the county board of equalization of a qualified
85 real property's inflation adjusted value within 15 business days after the date on which the
86 county assessor receives notice that a taxpayer filed an appeal with the county board of
87 equalization.

88 (B) The county assessor shall notify the commission of a qualified real property's
89 inflation adjusted value within 15 business days after the date on which the county assessor
90 receives notice that a person dissatisfied with the decision of a county board of equalization
91 files an appeal with the commission.

92 (iii) A person may not appeal a county assessor's calculation of inflation adjusted value
93 but may appeal the fair market value of a qualified real property.

94 (3) (a) Except as provided in Subsection (3)(b) and for purposes of Subsection (2), a
95 taxpayer shall make an application to appeal the valuation or the equalization of the taxpayer's
96 real property on or before the later of:

97 (i) September 15 of the current calendar year; or

98 (ii) the last day of a 45-day period beginning on the day on which the county auditor
99 provides the notice under Section 59-2-919.1.

100 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
101 commission shall make rules providing for circumstances under which the county board of
102 equalization is required to accept an application to appeal that is filed after the time period
103 prescribed in Subsection (3)(a).

104 (4) (a) Except as provided in Subsection (4)(b), the taxpayer shall include in the
105 application under Subsection (2)(a):

106 (i) the taxpayer's estimate of the fair market value of the property and any evidence that
107 may indicate that the assessed valuation of the taxpayer's property is improperly equalized with
108 the assessed valuation of comparable properties; and

109 (ii) a signed statement of the personal property located in a multi-tenant residential
110 property, as that term is defined in Section 59-2-301.8 if the taxpayer:

111 (A) appeals the value of multi-tenant residential property assessed in accordance with
112 Section 59-2-301.8; and

113 (B) intends to contest the value of the personal property located within the multi-tenant
114 residential property.

115 (b) (i) For an appeal involving qualified real property:

116 (A) the county board of equalization shall presume that the fair market value of the
117 qualified real property is equal to the inflation adjusted value; and

118 (B) except as provided in Subsection (4)(b)(ii), the taxpayer may provide the

119 information described in Subsection (4)(a).

120 (ii) If the taxpayer seeks to prove that the fair market value of the qualified real
121 property is below the inflation adjusted value, the taxpayer shall provide the information
122 described in Subsection (4)(a).

123 (5) In reviewing evidence submitted to a county board of equalization by or on behalf
124 of an owner or a county assessor, the county board of equalization shall consider and weigh:

125 (a) the accuracy, reliability, and comparability of the evidence presented by the owner
126 or the county assessor;

127 (b) if submitted, the sales price of relevant property that was under contract for sale as
128 of the lien date but sold after the lien date;

129 (c) if submitted, the sales offering price of property that was offered for sale as of the
130 lien date but did not sell, including considering and weighing the amount of time for which,
131 and manner in which, the property was offered for sale; and

132 (d) if submitted, other evidence that is relevant to determining the fair market value of
133 the property.

134 (6) (a) Except as provided in Subsection (6)(c), at least 5 days before the day on which
135 the county board of equalization holds a public hearing on an appeal:

136 (i) the county assessor shall provide the taxpayer any evidence the county assessor
137 relies upon in support of the county assessor's valuation; and

138 (ii) the taxpayer shall provide to the county assessor any evidence not previously
139 provided to the county assessor that the taxpayer relies upon in support of the taxpayer's appeal.

140 (b) If at the public hearing, the taxpayer presents evidence not previously provided to
141 the county assessor, the county board of equalization shall allow the county assessor to respond
142 to the evidence in writing within 10 days after the day on which the public hearing occurs.

143 (c) (i) A county board of equalization may adopt rules governing the disclosures
144 described in Subsection (6)(a), if the rules provide the same or greater protection to the
145 taxpayer and the county assessor.

146 (ii) A county board of equalization's rules described in Subsection (6)(c)(i) control over
147 the provisions of Subsection (6)(a).

148 [~~6~~] (7) (a) The county board of equalization shall meet and hold public hearings as
149 described in Section 59-2-1001.

150 (b) (i) For purposes of this Subsection [~~(6)~~] (7)(b), "significant adjustment" means a
151 proposed adjustment to the valuation of real property that:

152 (A) is to be made by a county board of equalization; and

153 (B) would result in a valuation that differs from the original assessed value by at least
154 20% and \$1,000,000.

155 (ii) When a county board of equalization is going to consider a significant adjustment,
156 the county board of equalization shall:

157 (A) list the significant adjustment as a separate item on the agenda of the public
158 hearing at which the county board of equalization is going to consider the significant
159 adjustment; and

160 (B) for purposes of the agenda described in Subsection [~~(6)~~] (7)(b)(ii)(A), provide a
161 description of the property for which the county board of equalization is considering a
162 significant adjustment.

163 (c) The county board of equalization shall make a decision on each appeal filed in
164 accordance with this section within 60 days after the day on which the taxpayer makes an
165 application.

166 (d) The commission may approve the extension of a time period provided for in
167 Subsection [~~(6)~~] (7)(c) for a county board of equalization to make a decision on an appeal.

168 (e) Unless the commission approves the extension of a time period under Subsection
169 [~~(6)~~] (7)(d), if a county board of equalization fails to make a decision on an appeal within the
170 time period described in Subsection [~~(6)~~] (7)(c), the county legislative body shall:

171 (i) list the appeal, by property owner and parcel number, on the agenda for the next
172 meeting the county legislative body holds after the expiration of the time period described in
173 Subsection [~~(6)~~] (7)(c); and

174 (ii) hear the appeal at the meeting described in Subsection [~~(6)~~] (7)(e)(i).

175 (f) The decision of the county board of equalization shall contain:

176 (i) a determination of the valuation of the property based on fair market value; and

177 (ii) a conclusion that the fair market value is properly equalized with the assessed value
178 of comparable properties.

179 (g) If no evidence is presented before the county board of equalization, the county
180 board of equalization shall presume that the equalization issue has been met.

181 (h) (i) If the fair market value of the property that is the subject of the appeal deviates
182 plus or minus 5% from the assessed value of comparable properties, the county board of
183 equalization shall adjust the valuation of the appealed property to reflect a value equalized with
184 the assessed value of comparable properties.

185 (ii) Subject to Sections [59-2-301.1](#), [59-2-301.2](#), [59-2-301.3](#), and [59-2-301.4](#), equalized
186 value established under Subsection [~~(6)~~] (7)(h)(i) shall be the assessed value for property tax
187 purposes until the county assessor is able to evaluate and equalize the assessed value of all
188 comparable properties to bring all comparable properties into conformity with full fair market
189 value.

190 [~~(7)~~] (8) If any taxpayer is dissatisfied with the decision of the county board of
191 equalization, the taxpayer may file an appeal with the commission as described in Section
192 [59-2-1006](#).

193 [~~(8)~~] (9) A county legislative body may pass a resolution authorizing taxpayers owing
194 taxes on property assessed by that county to file property tax appeals applications under this
195 section by telephone or other electronic means.